

FILED
Clerk
District Court

MAR 27 2006

For The Northern Mariana Islands
By _____
(Deputy Clerk)

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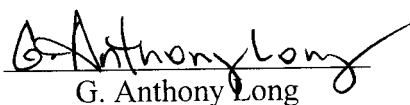
Attorney for Defendant Babauta

**IN THE UNITED STATES DISTRICT COURT
FOR THE
NORTHERN MARIANA ISLAND**

UNITED STATES OF AMERICA)	CRIMINAL CASE NO. 04-0009
)	
Plaintiff)	BABAUTA'S MEMORANDUM
)	SUPPORTING MOTION FOR
v.)	ORDER TO SET HEARING
)	DATE TO SET TERMS AND
PEDRO Q. BABAUTA)	CONDITIONS FOR RELEASE
)	
Defendant)	
)	

FRAP Rule 9 does not provide for issue of a mandate in connection with an order for release pending appeal. Pursuant to FRAP Rule 41, a mandate is only issued upon resolution of the merits of the appeal. Also, a mandate was not necessary for the hearing to set term and conditions for release pending appeal in *United States v. Fleming*, Criminal Case No. 04-00022. Accordingly, Babauta requests that a hearing be set in this matter as soon as practical.

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